

## 7479357.1

Plaintiffs requested the aid of the Court, which scheduled a telephonic discovery conference to address the issue for December 21, 2023.

3. On December 20, 2023, prior to the scheduled call with the Court, Extreme indicated it would designate witnesses for certain Topics in the Notice, including Topic 9, but stated that witnesses would be designated for those Topics “subject to Extreme’s objections and scope provided in its response to [the Notice].” Plaintiffs flatly rejected Extreme’s attempt to unilaterally narrow Topic 9.

4. Pursuant to the Court’s direction in the December 21, 2023 discovery conference, on December 29, 2023, Extreme designated Mr. DeBacker to provide testimony regarding Topics 1, 8, 9, 21, 25, and 31 on February 14, 2024.

5. On December 29, 2023, the parties also identified for the Court those Topics of the Notice which remained in dispute and proposed a briefing schedule for the resolution of Extreme’s objections to the disputed Topics. On January 5, the parties submitted their respective positions relating to the disputed Topics in Plaintiffs’ Notice and Extreme’s request for a protective order relating thereto. Extreme did not seek a protective order for Topic 9.

6. Despite its failure to move for a protective order, Extreme failed to prepare Mr. DeBacker to testify on Topic No. 9.

7. As a result, Mr. DeBacker was unprepared to provide substantive testimony concerning Topic No. 9 at his deposition on February 14, 2024.

8. Plaintiffs certify that, pursuant to Rule 37(a)(1) of the Federal Rules of Civil Procedure, they have complied with the applicable procedures for resolving discovery disputes and have in good faith attempted to confer with Extreme’s counsel regarding the request to reopen the Deposition in an effort to resolve this matter without action from this Court. Pursuant to those conferrals Extreme has agreed to prepare and present either Mr. DeBacker or another designee to testify on Topics 8 and 25 (for

which Mr. DeBacker also was not prepared on February 14, 2024) as well as the portion of Topic 9 addressing Extreme's gathering of documents and materials in response to Plaintiffs' written discovery requests, but that it refuses to prepare and produce a witness on the remainder of Topic 9 for which Mr. DeBacker was not prepared.

9. Plaintiffs ask this Court to allow Plaintiffs to reopen the Deposition of Extreme as to Topic No. 9, and direct Extreme to answer Plaintiffs' question on Topic No. 9, because Mr. DeBacker was unprepared, and Mr. DeBacker provided next to no substantive testimony on Topic No. 9.

10. Plaintiffs further request that the additional time Plaintiffs expend with respect to Topic 9 (and to complete Topics 8 and 25) not be counted against Plaintiffs' total time allotted for the Rule 30(b)(6) Deposition of Extreme .

**WHEREFORE**, for the reasons stated herein and in Plaintiffs' accompanying Memorandum of Law, the Declaration of John L. Wood, and related exhibits filed in support of this Motion, and as shall be raised at the oral argument of this Motion, if any, Plaintiffs respectfully request that this Honorable Court reopen the Rule 30(b)(6) deposition of Defendant Extreme Networks, Inc. and require Extreme to prepare a witness which will answer Plaintiffs' questions regarding noticed Area of Examination No. 9 and that the time used for the reopened topics not be counted against Plaintiffs' remaining time for the Deposition of Extreme.

Respectfully submitted,

Dated: March 19, 2024

By: /s/ Cheryl G. Rece

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